

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DAVID A. JOHNSON,

Plaintiff,

vs.

**EQUILON ENTERPRISES, L.L.C., a
Joint Venture of Shell Oil Company and Texaco,
Inc., and RAYTHEON CONSTRUCTORS, INC.
n/k/a WASHINGTON GROUP INTERNATIONAL,**

Defendants.

**EQUILON ENTERPRISES LLC and
WASHINGTON GROUP INTERNATIONAL, INC.,**

Third-Party Plaintiffs,

vs.

INDUSTRIAL REFRACTORY SPECIALISTS,

Third-Party Defendant.

No. 04-CV-00457-DRH

ORDER

HERNDON, District Judge:

This matter comes before the Court to consider two motions. The first motion considered is Plaintiff's Motion to Voluntarily Dismiss Without Prejudice defendant Raytheon Constructors, Inc. n/k/a Washington Group International ("WGI"). (Doc. 61.) Plaintiff explains the reason for this motion is that through

pretrial discovery, it was discovered that WGI did not have a contract to perform construction services at the scene of Plaintiff's alleged accident with Plaintiff's employer. (*Id.* at ¶ 1.) Accordingly, Plaintiff seeks a dismissal without prejudice of WGI from this case. WGI has filed its response to Plaintiff's motion, consenting to Plaintiff's request to dismiss WGI without prejudice from the instant matter. (Doc. 62, p. 1.)

In this case, WGI previously brought a joint third-party complaint along with defendant Equilon Enterprises, LLC ("Equilon") against third-party defendant Industrial Refractory Specialists ("Industrial"). (Doc. 46.) Therefore, the second motion the Court now considers is defendant/third-party plaintiff WGI's Motion to Dismiss its Third-Party Complaint against Industrial, if the Court should grant Plaintiff's motion to dismiss WGI. (Doc. 62.) However, it requests this dismissal against Industrial for WGI's claims *only* – the third-party action brought by Equilon against Industrial should remain pending. (*Id.* at p. 2.)

Therefore, the Court **GRANTS** Plaintiff's Motion to Dismiss defendant WGI Without Prejudice (Doc. 61) from this case. As such, defendant Raytheon Constructors, Inc. n/k/a Washington Group International is hereby **DISMISSED WITHOUT PREJUDICE** from this case. Secondly, the Court also **GRANTS** defendant/third-party plaintiff WGI's Motion to Dismiss Third-Party Complaint (Doc. 62) against third-party defendant Industrial. Accordingly, defendant/third-party plaintiff Raytheon Constructors, Inc. n/k/a Washington Group International's third-

party claims against third-party defendant Industrial Refractory Specialists are also hereby **DISMISSED WITHOUT PREJUDICE**. Further, the Court specifically notes that defendant/third-party plaintiff Equilon Enterprises, LLC's third-party claims against third-party defendant Industrial Refractory Specialists shall remain pending.

IT IS SO ORDERED.

This 23rd day of November, 2005.

/s/ **David RHerndon**
United States District Judge